

# HOGAN & HARTSON

L.L.P.

DOCKET FILE COPY ORIGINAL

COLUMBIA SQUARE  
555 THIRTEENTH STREET, NW  
WASHINGTON, DC 20004-1109  
TEL (202) 637-5600  
FAX (202) 637-5910

May 29, 1998

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
1919 M St., N.W.  
Washington, D.C. 20554

MAY 29 1998

**Re: Comment on Proposals to Revise the Methodology for  
Determining Universal Service Support;  
CC Docket Nos. 96-45 and 97-160; DA 98-715**

Dear Ms. Salas:

I am enclosing for filing an original and five copies of the Reply  
Comments of Western Wireless Corporation in the matters referred to above.  
Please contact me if you have any questions.

Respectfully submitted,



David L. Sieradzki  
Counsel for Western Wireless  
Corporation

Enclosures

cc: Parties on attached service list  
ITS, Inc.

No. of Copies rec'd 045  
UNABCODE

DOCKET FILE COPY ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Federal State Joint Board	)	CC Docket No. 96-45
On Universal Service	)	
	)	
Forward-Looking Mechanism	)	CC Docket No. 97-160
For High Cost Support For Non-Rural LECs	)	
	)	
Common Carrier Bureau Seeks Comment	)	DA 98-715
On Proposals to Revise the Methodology	)	
For Determining Universal Service Support	)	

MAY 29 1998

REPLY COMMENTS OF  
WESTERN WIRELESS CORPORATION

Western Wireless Corporation ("Western Wireless"), by its attorneys, hereby submits its reply comments in response to the Commission's Public Notice issued April 15, 1998. 1/

Western Wireless observes that, to our knowledge, no wireless carrier (other than incidentally, through ILEC or IXC affiliates) or organization of wireless carriers has participated in these proceedings *at all* to date. No wireless carrier has offered any proposals regarding the levels, jurisdictional allocation, and methods of recovering high-cost universal service support, or has filed detailed comments on the proposals of other parties. Accordingly, there is a serious risk that decisions will be taken that, inadvertently, could have the effect of precluding wireless

---

1/ Public Notice, *Common Carrier Bureau Seeks Comment on Proposals to Revise the Methodology for Determining Universal Service Support*, CC Docket Nos. 96-45 and 97-160, DA 98-715 (released April 15, 1998).

carriers from providing supported services in high-cost areas. Such decisions (most likely adopted due to lack of information about certain characteristics of wireless carriers) would contravene the Commission's goal of technological neutrality. 2/

Given the level of detail and our recent decision to get involved in this proceeding, we are not in a position at this point to submit detailed comments on the specific proposals in the record (although we hope to be able to do so, on an *ex parte* basis, in the near future). In this reply comment, however, we believe it is productive for us to submit several overall principles that any high-cost universal service support methodology should embody. We address three major points below: (1) the methodology for determining universal service support must make it possible for wireless carriers to provide supported services in high-cost areas; (2) the federal role in the universal service program must be substantial enough to ensure that consumers in high-cost areas are adequately protected; and (3) the Commission must reduce the existing administrative burdens associated with the universal service and related programs, and should avoid imposing complex new burdens.

## INTRODUCTION

Western Wireless is a cellular and personal communications service ("PCS") carrier specializing in the provision of high-quality, affordable, and reliable wireless services to subscribers in both rural/high-cost and higher-density urban areas. Western Wireless currently provides commercial mobile radio service

---

2/ Federal-State Joint Board on Universal Service, First Report and Order, 12 FCC Rcd 8776, 8858, ¶ 145 (1997) ("*First R&O*"), *pet. for review pending*.

("CMRS") to more than 700,000 subscribers under licenses in 22 states, covering over 60 percent of the continental United States, as well as Hawaii.

Western Wireless distinguishes itself from other carriers by customizing its deployment of wireless technologies to suit particular geographic areas. In rural and small metropolitan areas, Western Wireless emphasizes its cellular services, which it markets under the Cellular One brand. In more densely populated areas, Western Wireless focuses on its PCS services, which it markets under the VoiceStream Wireless brand. By targeting its resources and optimizing technology in this manner, Western Wireless is able to both maximize quality and minimize costs, bringing the highest value to its wireless customers.

As one of the first U.S. wireless carriers to launch PCS services, Western Wireless continues to serve as a leader in the wireless industry by emphasizing enhanced service offerings and actively experimenting with wireless local loop technology -- a technology that Larry Irving, Assistant Secretary of the National Telecommunications and Information Association ("NTIA"), has stated could promote at least two national goals: moving toward a pro-competitive telecommunications market and achieving universal service. <sup>3/</sup> Western Wireless also has formed a subsidiary to provide competitive local exchange ("CLEC")

---

<sup>3/</sup> Opening Remarks by Larry Irving, Assistant Secretary for Communications and Information, National Telecommunications and Information Association, Department of Commerce, at NTIA's New Frontiers on the Information Superhighway: Wireless Loop Forum, Washington, D.C., December 17, 1997, (available at <http://www.ntia.doc.gov/ntiahome/speeches/121797wireless.htm>).

services. This CLEC subsidiary is currently authorized to provide local exchange and long distance service in several states.

Western Wireless operates in a number of rural areas. In some regions, we believe it may be less costly to provide supported telecommunications services using wireless technologies than by using the wireline systems of incumbent local exchange carriers ("ILECs"). Thus, Western Wireless is seriously interested in providing universal service and helping realize the goals of Section 254 of the Act. To that end, Western Wireless has already begun working closely with several state commissions on ongoing intrastate universal service proceedings.

## **DISCUSSION**

### **I. UNIVERSAL SERVICE SUPPORT MUST APPLY TO WIRELESS CARRIERS' SERVICES IN HIGH-COST AREAS.**

The Commission has already established, correctly, that all carriers, including CMRS providers, should be eligible to receive high-cost universal service support if they provide supported services in designated high-cost areas. <sup>4/</sup> Explicit subsidies must be portable between competing carriers. <sup>5/</sup> And if a consumer decides to take service from a wireless carrier, that service should be eligible for support to the same extent as ILEC service.

---

<sup>4/</sup> See *First R&O*, 12 FCC Rcd at 8858, ¶ 145 and 8932, ¶ 287.

<sup>5/</sup> *Id.* at 8932, ¶¶ 286-287; see also *id.* at 8944, ¶ 311.

To ensure that this overall policy is carried out in practice, it is vitally important that the Commission ensure that any universal service methodology complies with several important criteria:

(1) In setting up and defining terms used in the support program, the Commission should ensure that there is sufficient flexibility to enable CMRS providers and other CLECs to participate. For example, CMRS providers typically serve areas that are defined much more broadly than the “wire centers” (based on the topology of the ILECs’ networks) and census block groups that are at the core of some of the methodological alternatives under consideration. The definitions must not be so rigid and narrow that they effectively exclude wireless carriers from participating in the program.

(2) There must be parity between the revenue support available to ILECs, CLECs, CMRS carriers, and all other eligible telecommunications carriers, regardless of those carriers’ rate structures or regulatory status. If the methodology results in a particular dollar amount of support per line per month, the same revenue support should be available for customers who choose to take service from a CMRS provider.

The differences between various carriers’ rate structures should not be relevant for universal service support purposes. ILECs typically offer local service in a relatively constrained geographic area with a flat monthly charge and little or no usage charges -- although the specifics differ from state to state and from carrier to carrier. CMRS providers typically offer several options, ranging from a low

monthly rate and relatively high usage charges, to a higher monthly rate and lower usage charges. The geographic area considered “local” is typically much larger than that of most ILECs. There is considerable variation among carriers, and CMRS carriers, unlike ILECs, are not subject to state rate regulation. But the same level of universal service support revenue per line should be available regardless of the rate structure employed.

(3) Support should be available for mobile, as well as stationary, services, and for wireless as well as wireline local loops. And consumers in high-cost areas should be able to receive local telecommunications service with the universal service support to which they are entitled, even if they also choose to pay for the benefit of mobility.

(4) States must certify CMRS carriers, as well as wireline carriers, as “eligible telecommunications carriers” under Section 214(e). Wireless carriers, especially using technologies such as wireless local loops, may be able to play a crucial role as a low-cost provider of affordable telephone service in rural areas. CMRS carriers may even be in a strong position to offer service to “low-income consumers located in unserved areas . . . [who] cannot afford to pay the line extension or construction charges necessary to extend facilities to their homes.” <sup>6/</sup> An approach that has the effect of excluding wireless carriers from the universal service program likely would run afoul of Sections 214, 253, 254, and 332 of the Act.

---

<sup>6/</sup> Arizona Proposal at 2. It may well prove to be less costly for wireless carriers to extend service to extremely remote unserved areas than for wireline carriers; states and the FCC must be open to both alternatives.

## **II. THE FEDERAL ROLE IN UNIVERSAL SERVICE SUPPORT MUST BE SUBSTANTIAL ENOUGH TO PROTECT CONSUMERS IN HIGH-COST AREAS.**

Western Wireless generally supports proposals like those of US West and TIAP's modified option, which would increase the federal share of responsibility for universal service support beyond the 25/75 federal/state responsibilities adopted in the May 1997 order. (This support is based, in part, on the belief that an increase in the federal share of universal service support will lessen the need for state universal service funding. We reserve the right to elaborate in more detail in a subsequent *ex parte* filing.) There is no legal reason that a 25/75 jurisdictional split is any more or less sustainable, as a legal matter, than other numbers, such as those suggested by US West (25/75 up to a certain benchmark, and 100/0 above that point) and TIAP's modified option (40/60).

There are several strong policy reasons for a larger federal share than the 25/75 approach. First, there is a national interest in making sure that Americans in remote areas are connected to the national network of networks. This goal is expressed in Sections 1 and 254 of the federal Act. Second, in the short- to medium-term, many states lag substantially behind the FCC in developing universal service policies. A significant amount of federal support is required to ensure that consumers in rural areas are protected, as intended by Congress.

Finally, all carriers and consumers benefit to the extent that the contribution percentage rate can be as small as possible. The rate can be minimized by spreading contribution obligations over as large a base as possible.

Because of the relatively narrow revenue base available within a fair number of largely rural states, the federal share of responsibility for universal service should be increased.

### **III. THE COMMISSION SHOULD REDUCE THE ADMINISTRATIVE BURDENS OF UNIVERSAL SERVICE CONTRIBUTIONS AND RELATED REQUIREMENTS.**

As it develops a high-cost universal service methodology, the Commission should take care to minimize the administrative burdens of the program, particularly for carriers such as CMRS providers that generally do not offer service in the same way as ILECs. For example, CMRS providers, which are not subject to federal or state rate regulation, generally do not separately account for their interstate and intrastate revenues and costs. For this reason, the Commission properly decided not to rigidly apply the principle that carriers may recover their contributions through interstate revenues only to carriers like CMRS providers whose revenues are not divisible into "interstate" and "intrastate" categories. <sup>7/</sup> Similarly, for purposes of contributing to the fund, carriers (like CMRS providers) that cannot identify with specificity which traffic is intrastate and interstate should be given a consistent set of guidelines on how to estimate these amounts, to the extent that the interstate/intrastate distinction remains significant for purposes of contributing to the fund.

---

<sup>7/</sup> Compare *First R&O*, 12 FCC Rcd at 9198, 9203, ¶¶ 825, 838, with *Federal-State Joint Board on Universal Service*, Fourth Order on Reconsideration, FCC 97-420, ¶ 309 (released Dec. 30, 1997).

The Commission should also take steps to reduce the enormous administrative burdens associated with required contributions to at least five federally mandated funds -- universal service, telecommunications relay service, North American Numbering Plan Administration, number portability, and FCC regulatory fees. These payment obligations should be coordinated -- administratively, through a single set of reporting forms and payments (through USAC or other entity) -- and substantively, by ensuring, to the greatest extent possible, a consistent (and minimal) set of reporting and payment requirements.

Finally, the Commission should strive, to the extent possible, for simplicity in the high cost methodology, and in the universal service program overall. This will make it easier and less administratively burdensome for carriers to comply, and for consumers to benefit.

## **CONCLUSION**

Western Wireless recommends that the Commission take care, as it develops policies on the methodology for determining universal service support, to

ensure that consumers in high-cost areas have access to supported service from a full range of competing carriers -- especially wireless carriers.

Respectfully submitted,

WESTERN WIRELESS  
CORPORATION

By: David Sieradzki

Gene DeJordy  
Executive Director of Regulatory Affairs  
WESTERN WIRELESS CORPORATION  
3650 - 131st Ave. S.E., Suite 400  
Bellevue, WA 98006  
(425) 586-8055


Michele C. Farquhar  
David L. Sieradzki  
HOGAN & HARTSON, L.L.P.  
555 13th Street, N.W.  
Washington, D.C. 20004  
(202) 637-5600

Counsel for Western Wireless  
Corporation

Dated: May 29, 1998

**CERTIFICATE OF SERVICE**

I, David Maybee, Jr., hereby certify that on this 29th day of May, 1998,  
a copy of the Reply Comments of the Western Wireless Corporation was served on  
each of the parties listed below by hand delivery or first class mail.

  
\_\_\_\_\_  
David Maybee, Jr.

The Honorable William E. Kennard, Chair,  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

The Honorable Susan Ness,  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

The Honorable Julia Johnson, State Chair,  
Chairman  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Gerald Gunter Building  
Tallahassee, FL 32399-0850

The Honorable Harold Furchtgott-Roth,  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 802  
Washington, D.C. 20554

The Honorable Micheal K. Powell,  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

The Honorable Gloria Tristani,  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W., Room 826  
Washington, D.C. 20554

Irene Flannery, Federal State Chair  
Federal Communications Commission  
Accounting and Audits Division  
Universal Service Branch  
2100 M Street, N.W., Room 8922  
Washington, D.C. 20554

James Casserly  
Federal Communications Commission  
Commissioner Ness's Office  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

Thomas C. Power  
Federal Communications Commission  
Commissioner Kennard's Office  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

Kevin Martin  
Federal Communications Commission  
Commissioner Furchtgott-Roth's Office  
1919 M Street, N.W., Room 802  
Washington, D.C. 20554

Kyle D. Dixon  
Federal Communications Commission  
Commissioner Powell's Office  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

Paul Gallant  
Federal Communications Commission  
Commissioner Tristani's Office  
1919 M Street, N.W., Room 826  
Washington, D.C. 20554

James D. Schlichting  
Federal Communications Commission  
Competitive Pricing Bureau  
2033 M Street, N.W., Room 518  
Washington, D.C. 20554

Lisa Gelb  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Emily Hoffnar  
Federal Communications Commission  
Common Carrier Division  
2100 M Street, N.W., Room 8623  
Washington, D.C. 20554

L. Charles Keller  
Federal Communications Commission  
Common Carrier Bureau  
2100 M Street, N.W., 8th Floor  
Washington, D.C. 20554

Sheryl Todd (plus 8 copies)  
Federal Communications Commission  
Accounting and Audits Division  
Universal Service Branch  
2100 M Street, N.W., Room 8611  
Washington, D.C. 20554

Jane Whang  
Federal Communications Commission  
Common Carrier Bureau  
2100 M Street, N.W., 8th Floor  
Washington, D.C. 20554

The Honorable David Baker,  
Commissioner  
Georgia Public Service Commission  
244 Washington Street, S.W.  
Atlanta, GA 30334-5701

The Honorable Laska Schoenfelder, Commissioner  
South Dakota Public Utilities Commission

State Capitol, 500 East Capitol Street  
Pierre, SD 57501-5070

The Honorable Patrick H. Wood, III, Chairman  
Texas Public Utility Commission  
1701 North Congress Ave.  
Austin, TX 78701

Martha S. Hogerty  
Missouri Office of Public Council  
301 West High Street, Suite 250  
Truman Building  
Jefferson City, MO 65102

Charles Bolle  
South Dakota Public Utilities Commission  
State Capitol, 500 East Capitol Street  
Pierre, SD 57501-5070

Deonne Bruning  
Nebraska Public Service Commission  
300 The Atrium, 1200 N. Street  
P.O. Box 94927  
Lincoln, NE 68509-4927

Rowland Curry  
Texas Public Utility Commission  
1701 North Congress Avenue  
P.O. Box 13326  
Austin, TX 78701

Ann Dean  
Maryland Public Service Commission  
16th Floor, 6 Saint Paul Street  
Baltimore, MD 21202-6806

Bridget Duff, State Staff Chair  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0866

Lori Kenyon  
Alaska Public Utilities Commission  
1016 West Sixth Avenue, Suite 400  
Anchorage, AK 99501

Mark Long  
Florida Public Service Commission  
2540 Shumard Oak Blvd.  
Tallahassee, FL 32399-0866

Sandra Makeeff  
Iowa Utilities Board  
Lucas State Office Building  
Des Moines, IA 50319

Philip F. McClelland  
Pennsylvania Office of Consumer Advocate  
1425 Strawberry Square  
Harrisburg, PA 17120

Barry Payne  
Indiana Office of the Consumer Counsel  
100 North Senate Avenue, Room N501  
Indianapolis, IN 46204-2208

James Bradford Ramsey  
National Association of Regulatory Utility Commissioners  
1100 Pennsylvania Ave., N.W.  
P.O. Box 684  
Washington, D.C. 20044-0684

Brian Roberts  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Tiane Sommer  
Georgia Public Service Commission  
244 Washington Street, S.W.  
Atlanta, GA 30334-5701

Richard J. Metzger  
Association for Local Telecommunications  
Services  
888 17th Street, N.W., Suite 900  
Washington, D.C. 20006

International Transcription Services \*  
1231 20th Street, N.W.  
Washington, D.C. 20036